

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CLIFTON HALSEY,

Plaintiff,

ORDER

17-CV-2935 (MKB) (LB)

v.

NYC HEALTH AND HOSPITAL CORP.,
PHYSICIAN SHPITZ, and LPN STEWART,

Defendants.

MARGO K. BRODIE, United States District Judge:

Plaintiff Clifton Halsey, proceeding *pro se*, commenced the above-captioned action on November 23, 2016, against Defendants New York City Department of Correction, Physician Shpitz, and Licensed Practical Nurse Stewart¹ in the Southern District of New York, alleging a violation of his federal constitutional rights. (Am. Compl. 2, Docket Entry No. 6.) Plaintiff alleges that Defendants failed to provide him with adequate medical care in violation of 42 U.S.C. § 1983. By Order dated May 4, 2017, Southern District Chief Judge Colleen McMahon transferred the action to the Eastern District of New York (the “Transfer Order”). (Transfer Order, Docket Entry No. 7.) By report and recommendation dated September 14, 2020, Magistrate Judge Lois Bloom *sua sponte* recommended that the Court dismiss the action without prejudice pursuant to Rule 41(b) of the Federal Rules of Civil Procedure because “Plaintiff has

¹ Plaintiff originally filed suit against the New York City Department of Correction, the New York City Health and Hospital Corporation, and the City of New York. (Compl., Docket Entry No. 2.) By Order dated February 1, 2017, the Court dismissed Plaintiff’s claims against the New York City Department of Correction pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) and granted Plaintiff leave to file an amended complaint. (Order dated Feb. 1, 2017, Docket Entry No. 5.) On April 3, 2017, Plaintiff filed an Amended Complaint naming the current Defendants. (Am. Compl., Docket Entry No. 6.)

made no effort to prosecute this case and has apparently abandoned the action” by failing to provide his current contact information (the “R&R”). (R&R 5, Docket Entry No. 43.) No party has objected to the R&R and the time for doing so has passed.

I. Discussion

A district court reviewing a magistrate judge’s recommended ruling “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “Where parties receive clear notice of the consequences, failure to timely object to a magistrate’s report and recommendation operates as a waiver of further judicial review of the magistrate’s decision.” *Smith v. Campbell*, 782 F.3d 93, 102 (2d Cir. 2015) (quoting *Mario v. P&C Food Mkts., Inc.*, 313 F.3d 758, 766 (2d Cir. 2002)); *see also Almonte v. Suffolk Cnty.*, 531 F. App’x 107, 109 (2d Cir. 2013) (“As a rule, a party’s failure to object to any purported error or omission in a magistrate judge’s report waives further judicial review of the point.” (quoting *Cephas v. Nash*, 328 F.3d 98, 107 (2d Cir. 2003))); *Sepe v. N.Y. State Ins. Fund*, 466 F. App’x 49, 50 (2d Cir. 2012)); *Wagner & Wagner, LLP v. Atkinson, Haskins, Nellis, Brittingham, Gladd & Carwile, P.C.*, 596 F.3d 84, 92 (2d Cir. 2010) (“[A] party waives appellate review of a decision in a magistrate judge’s [r]eport and [r]ecommendation if the party fails to file timely objections designating the particular issue.”).

The Court has reviewed the unopposed R&R and, finding no clear error, adopts the R&R pursuant to 28 U.S.C. § 636(b)(1).

II. Conclusion

For the reasons set forth above, the Court adopts the *sua sponte* R&R and dismisses the action without prejudice pursuant to Rule 41(b). The Clerk of Court is directed to mail a copy of this Order to Plaintiff at the address of record and close this case.

Dated: October 13, 2020
Brooklyn, New York

SO ORDERED:

s/ MKB
MARGO K. BRODIE
United States District Judge